

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

OSCAR YANES, et al)	
Petitioners)	
)	
v.)	1:20-cv-00216-MSM-PAS
)	
DANIEL MARTIN, et al)	
Respondents)	

MEMORANDUM AND ORDER

On May 20, 2020, the Court held a telephonic conference with attorneys representing the named petitioners, who are seeking to represent a class of similarly-situated petitioners, and attorneys representing the respondents. The conference addressed several pending motions: (1) motion for class certification and appointment of lead counsel (ECF 14), (2) motion for an injunction to prohibit transfers of ICE detainees in or out of the Wyatt Detention Center (ECF 16), (3) motion for expedited bail hearings and discovery (ECF 15), and (4) motion for preliminary injunction (ECF 1).

After hearing arguments of counsel, I issue the following ORDERS:

1. Pursuant to Rule 23(b) of the Federal Rules of Procedure, and for the reasons stated on the record, I provisionally certify as a class, civil immigration detainees at the Wyatt Detention Center who are currently held there or will be held there during the pendency of this action. The respondents have objected to class

certification and may, in their response to the Complaint to be filed no later than May 26, 2020, put forth reasons why such a class should not be finally certified. As a temporary matter, while the class is so certified, I designate petitioners Oscar Yanes, Gagik Mkrtchian, and Wendell Baez Lopez, to be class representatives, and I designate Attorneys Michael Tan, Eunice Cho and David Fathi to be class counsel. If class certification is made final in the future, these designations will similarly become final.

2. With respect to the motion to enjoin transfers in or out of the facility, the Court has already issued an Order (ECF 17) requiring the respondents to notify the Court and petitioners' counsel of their intention to transfer any members of the class out of the facility. Respondents have given verbal notice of their intent to transfer, beginning on May 26, 2020, eight (8) detainees who are subject to final removal orders, for the purpose of deportation. The Court ORDERS the respondents to give written notice of that intent no later than 9 a.m. on May 21, 2020, along with information pertinent to their removal status. The petitioners have until 9 am on May 22, 2020, to respond, and the Court will hold a virtual hearing on May 22, 2020, to address the pending motion to enjoin such transfers with respect to those eight detainees.

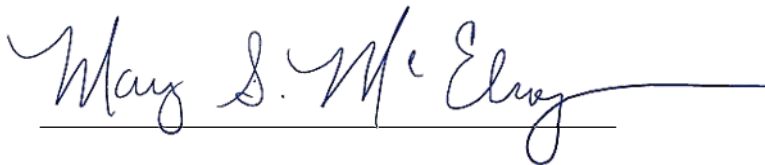
The government will address in its May 26th response the issue of whether the Court should enjoin the acceptance of new detainees into the facility.

3. With respect to the motion for expedited bail hearings and discovery, the government has verbally objected, and will address this motion in its comprehensive

response of May 26th. In addition, however, the government will include, in a separate filing no later than May 26th, the information requested in Paragraph 6 of the petitioner's Motion (ECF No. 15) as to each member of the class housed at Wyatt, excluding the eight (8) mentioned in Para. 2 above. That information will be filed under seal.

4. No later than May 22, the parties shall meet for the following purposes: (a) the government will determine whether there are any members of the class for whom it will agree to a release hearing; and (b) the government will provide to the petitioners a list of the members of the class, their current immigration status, and the names of any attorneys who represent them in related matters. The parties will report their progress to the Court no later than 2 p.m. on May 22, 2020.

IT IS SO ORDERED:

A handwritten signature in blue ink, reading "Mary S. McElroy", followed by a horizontal line.

Mary S. McElroy, U.S. District Judge

May 20, 2020